

IN THE UNITED STATES COURT OF FEDERAL CLAIMS

MYNETTE TECHNOLOGIES, INC.
and STEVEN M. COLBY,

Plaintiffs,

V.

THE UNITED STATES,

Defendant,

and

GEMALTO, INC. and IDEMIA IDENTITY
& SECURITY USA LLC,

Intervenor-Defendants.

Case No. 16-cv-01647-RTH

Judge Ryan T. Holte

JOINT MOTION TO AMEND CASE SCHEDULE

Plaintiffs Mynette Technologies, Inc. and Steven M. Colby, Defendant, the United States (“the Government”), and Intervenor-Defendants Gemalto, Inc. (“Gemalto”) and Idemia Identity and Security USA LLC (“Idemia”) (collectively, “the Parties”) respectfully submit this Joint Motion to Amend Case Schedule.

The Parties have jointly agreed that discovery in this case should be extended. The Parties have further agreed upon the following amended schedule for consideration by the Court, and respectfully move the Court to adopt this case schedule. For the reasons that follow, the Parties submit that good cause exists for this proposed schedule amendment.

First, the Parties have conducted all of the depositions that were referenced in their last Joint Motion (ECF No. 118). Specifically, the Parties conducted 30(b)(6) depositions of the Transportation Security Administration (“TSA”), and individual and 30(b)(6) depositions of

Plaintiffs Steven Colby and Mynette Technologies, Inc. (“Mynette”). During Plaintiffs’ depositions, the Government, Gemalto, and Idemia learned for the first time that Plaintiffs’ counsel of record, Robert J. Yorrio, is the majority owner of Mynette. As a result of this recent disclosure, the Government, Gemalto, and Idemia contend that they are entitled to depose Mr. Yorrio. Although Mynette and Colby disagree that being a shareholder of a company opens that person up for deposition, in order to resolve the dispute they have agreed to a limited deposition for Mr. Yorrio, and the parties are meeting and conferring about the scope of that deposition. Colby and Mynette have also agreed to an additional day of deposition of Dr. Colby. The parties are also in the midst of meeting and conferring about whether Mr. Yorrio’s ownership interest in Mynette has any impact on the Protective Order in this case (an issue on which the parties disagree), and about the scope of additional discovery that may be owed to the Government, Gemalto, Idemia, and Plaintiffs. The parties anticipate that motion practice related to one or more of these issues may become necessary in the near term.

Although Defendants previously agreed that no new discovery be issued, Defendants contend that it has come to light through recent depositions that several knowledgeable individuals had not been disclosed until after the agreement. Accordingly, Defendants reserve the right to request discovery relating to these new disclosures.

The Parties have also agreed to produce numerous documents referenced in their last Joint Motion (ECF No. 118). However, Plaintiffs and the Government have since agreed to the production of certain additional documents and things from the Department of State and the Government Publishing Office that were first identified in recent depositions. The Government requires additional time within which to collect and review these materials before production, including any required national security review that may be required by the agency. Plaintiffs reserve the right to request additional discovery from the Government relating to these documents

following their production. There is also an open issue with respect to the production of additional documents by third party Infineon Technologies. Plaintiffs reserve the right to request additional discovery from Infineon relating to these documents following their production.

The deadlines proposed herein will allow the parties to complete depositions, produce outstanding documents and things, and resolve any remaining discovery disputes, all while accommodating the schedule of counsel and the witnesses.

Accordingly, for the reasons set forth herein, the parties respectfully request that the Court adopt the following schedule:

Event	Current Date	Proposed Date
Close of fact discovery, including for damages-related fact discovery.	July 23, 2021	October 22, 2021
RCFC 26(a)(2)(A) disclosure of experts and CVs (except for damages)	August 13, 2021	November 12, 2021
Exchange of RCFC 26(a)(2)(B) opening expert reports on issues upon which the parties carry the burden of proof (except for damages)	October 22, 2021	January 21, 2022
Exchange of RCFC 26(a)(2)(B) responsive expert reports (except for damages)	December 3, 2021	March 4, 2022
Close of expert discovery (for all issues other than damages)	December 21, 2021	March 25, 2022
Deadline for Dispositive Motions Under RCFC 56	February 15, 2022	May 20, 2022
Deadline for Responses to Dispositive Motions	March 18, 2022	June 17, 2022
Deadline for Replies to Dispositive Motions	April 1, 2022	July 1, 2022

Event	Current Date	Proposed Date
Pretrial Conference	Not Set	Not Set
Trial on liability (10 days)	Not Set	Not Set

Respectfully submitted,

By: /s/ Robert J. Yorio

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July 27, 2021

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